IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Chapter VIII, Rule 32(2) (b)
Description of case

Writ Petition No. 616 of 2003 (M/B)

Date of decision: 28th July, 2006

A.F.R. (Approved for Reporting)

~~Not Approved for Reporting~~

Date 28.7.2006 Initials of Judge

Note: Bench Reader will attach this at the top of first page of the judgment when it is put up the Judge for signature.

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 616 of 2003 (M/B)

All Saints College,
through its Principal/Secretary,
Nainital, District Nainital …….. Petitioner

Versus

1. Regional Provident Fund Commissioner,
   U.P., Kanpur.
2. The Assistant Provident Fund Commissioner,
   Sub-Regional Office, Haldwani,
   Distt. Nainital.
3. Allahabad Bank through its Branch Manager,
   Nainital, District Nainital ……. Respondents

…….

Sri Rakesh Thapaliyal, Advocate on behalf of Sri D.K. Sharma, Advocate for the petitioner.
Sri Ashok Aggarwal, Advocate for respondents 1 and 2.
Sri U.P.S. Negi, Advocate for respondent no. 3.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble Prafulla C. Pant,

RAJEEV GUPTA, C. J. (Oral)

Sri Rakesh Thapaliyal, Advocate on behalf of Sri D.K. Sharma, Advocate for the petitioner.

Sri Ashok Aggarwal, Advocate for respondents 1 and 2.

Sri U.P.S. Negi, Advocate for respondent no. 3.

They are heard.

2. The petitioner College has filed this writ petition for the following reliefs:

"i. issue a writ, order or direction in the nature of certiorari quashing the order dt. 09.06.2003 (Annexure No. 9) passed by the respondent no. 2.

ii. issue a writ, order or direction in the nature of mandamus directing to the respondents not to take any coercive method against the petitioners institution to recover the damages for the period commencing from

11.03.1982 to 01.02.1988 along with the interest thereon and further the respondent no. 3 may also be directed not to deduct any amount from the petitioners account in pursuance to the impugned order dated 09.06.2003 without prior notice to the petitioner's institution.

iii. Issue any suitable writ, order or direction which this Hon'ble Court may deem fit and proper on the basis of the facts and circumstances of the case.

iv. Award the cost of the petition to the petitioner."

3. Sri Aggarwal, the learned counsel for respondents 1 and 2 referring to para 16 of the writ petition has raised a preliminary objection about the maintainability of the writ petition on the ground that the petitioner is pursuing parallel proceedings against the impugned order dated 09.06.2003 (Annexure 9).

4. Para 16 of the writ petition reads as follows:

> " That against the order dated 09.06.2003, the institution raised a dispute before the E.P.F. Appellate Tribunal, New Delhi on 02.07.2003, which is registered as case no. ATA 448 (14) of 2003, All Saints' College, Nainital Versus The Assistant Provident Fund Commissioner, U. P. Kanpur and The Assistant Provident Commissioner, S. R. O., Haldwani, however in the said matter no specific date has been fixed by the Tribunal however the matter is still pending and sub-judice before the Tribunal. A copy of the appeal preferred before the Appellate Tribunal is being filed herewith and marked as Annexure No. 10."

5. Sri Thapaliyal, the learned counsel for the petitioner could not dispute that the Petitioner College before filing the writ petition on 07.07.2003, had filed an appeal before the E.P.F. Appellate Tribunal, New Delhi against the impugned order dated 09.06.2003 and the same was pending on the date of filing of the writ petition.

6. As the impugned order dated 09.06.2003 was the subject matter of the appeal filed by petitioner College before the E.P.F. Appellate Tribunal, New Delhi and the same was pending on the date of filing of the writ petition on 07.07.2003, the writ petition apparently was/is not maintainable as no one can be allowed to pursue parallel proceedings.

7. The writ petition, therefore, is liable to be dismissed as not maintainable.

8. It shall, however, be open to the petitioner to pursue the appeal filed by the petitioner before the E.P.F. Appellate Tribunal, New Delhi, if the same is still pending and to seek interim relief against the impugned order, if the same is permissible under the relevant provisions of law.

9. With the above observation, the writ petition stands disposed of.

8. Consequently, the interim order dated 07.07.2003 stands vacated automatically.

9. With the above order, CLMA No. 9401 of 2006 also stands disposed of.

(Prafulla C. Pant, J.) 28.07.2006

(Rajeev Gupta, C. J.) 28.07.2006

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